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U.S. DISTRICT COURT
HONOLULU, HAWAII

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FILED IN THE
UNITED STATES DISTRICT COURT
DISTRICT OF HAWAII

Oct 26 2006

at 3 o'clock and 40 min. P.M.
SUB BEITIA, CLERK

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UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

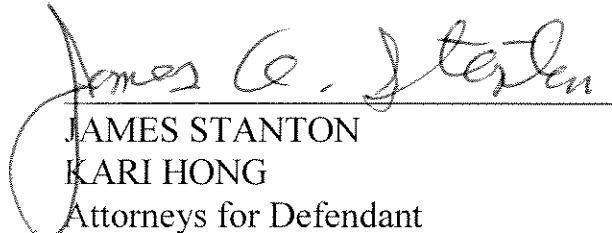
NELSON BEFTEL, State of Hawaii) NO. CV-06-00366 ACK (KSC)
Director of Labor and Industrial)
Relations,) **MOTION FOR LEAVE TO**
PLAINTIFF,) **FILE REPLY TO PLAINTIFF'S**
v.) **RESPONSE TO DEFENDANT'S**
GLOBAL HORIZONS,) **OBJECTIONS; REPLY TO**
INCORPORATED, A California) **PLAINTIFF'S RESPONSE TO**
Corporation Registered To Do) **DEFENDANT'S OBJECTIONS;**
Business in Hawaii) **CERTIFICATE OF SERVICE**
DEFENDANT.) [Before Judge Alan C. Kay]
) Hearing Date: N/A
) Hearing Time: N/A

**MOTION FOR LEAVE TO FILE REPLY TO PLAINTIFF'S
RESPONSE TO DEFENDANT'S OBJECTIONS**

Pursuant to Local Rule 74.2, Defendant respectfully requests for leave to file the following Reply To Plaintiff's Response to Defendant's Objections. The proposed reply is extremely brief (just over 300 words), and Defendants believe that it will assist the Court in clarifying the issues of fact and law necessary in resolving the issue before it. In light of the fact that this case presents novel issues of law, Defendant believes that the additional argument will assist the Court in determining whether it has jurisdiction over the case.

Dated: October 26, 2006

Respectfully submitted,



JAMES STANTON
KARI HONG
Attorneys for Defendant
Global Horizons, Inc.

**REPLY TO PLAINTIFF'S RESPONSE TO DEFENDANT'S
OBJECTIONS**

A. *Moor* Establishes That If Plaintiff Operates As A Political Entity, Diversity Jurisdiction Is Proper

Plaintiff contends that *Moor v. County of Alameda*, 411 U.S. 693, 717 (1973) “made it clear” that a State is not a citizen for diversity jurisdiction. (Response at 3.) In the sentence following the quoted excerpt, the United States Supreme Court defines the exception to that rule: “this Court has recognized that a *political subdivision of a State*, unless it is simply ‘the arm or alter ego of the State,’ *is a citizen of the State for diversity purposes.*” *Moor*, 411 U.S. at 717 (emphasis added). Thus, the dispositive question is whether Plaintiff operates as a political subdivision or a political entity.

Moreover, Plaintiff fails to provide authority for its proposition that the Ninth Circuit will not import its *Jackson* analysis to the question at issue. As set forth in Defendant’s Objections to the Magistrate Judge’s recommendations, the Ninth Circuit has not addressed whether it would use Jackson’s sovereign immunity analysis to determine the status of Plaintiff for diversity purposes. However, as cited in Defendant’s Objections, every circuit court that has rejects the distinction between the analyses used to divine diversity jurisdiction and sovereign immunity, which is advanced by Plaintiff. Plaintiff thus fails to cite to any case to accept its resolution of this novel issue of law.

B. The Unique Characteristics of Plaintiff Render It A Political Entity For Diversity Purposes

As set forth in Defendant's Objections, Plaintiff is a unique entity that has financial and political independence from the State of Hawaii. Plaintiff failed to cite to any case law that provides that an entity that is similarly situated to Plaintiff has been found to be an arm of the State. Accordingly, Defendant respectfully requests this Court to find that Plaintiff operates as a political subdivision for diversity purposes.

Dated: October 26, 2006

Respectfully submitted,



JAMES STANTON
KARI HONG
Attorneys for Defendant
Global Horizons, Inc.

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

NELSON BEFITEL, State of Hawaii)	NO. CV-06-00366 ACK (KSC)
Director of Labor and Industrial)	
Relations,)	
PLAINTIFF,)	CERTIFICATE OF SERVICE
)	
v.)	
)	
GLOBAL HORIZONS, INC.,)	
A California Corporation)	
Registered To Do Business)	
in Hawaii)	
DEFENDANT.)	
)	

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I caused a true and correct copy of the foregoing to be duly served upon the following party, either by U.S. Mail, postage pre-paid or by hand delivery:

TO: MARK J. BENNETT, Attorney General
GARY S. IGE, Deputy Attorney General
Department of the Attorney General/ Labor Division
425 Queen Street
Honolulu, Hawaii 96813

Attorneys for NELSON B. BEFITEL,
Director, Department of Labor and Industrial Relations

NELSON B. BEFITEL, Director
GARY HAMADA, Administrator
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830 Punchbowl Street, Room 211
Honolulu, Hawaii 96813

DATED: Honolulu, Hawaii, August 25, 2006.



JAMES A. STANTON
Attorney for Defendant
GLOBAL HORIZONS, INC.